Title XVIII by a physician who is an ACO provider/supplier during the performance year for which shared savings are to be determined.

(2)(i) Medicare assigns beneficiaries in a preliminary manner at the beginning of a performance year based on most recent data available.

(ii) Assignment will be updated quarterly based on the most recent 12 months of data.

(iii) Final assignment is determined after the end of each performance year, based on data from the performance year.

(b) Beneficiary assignment to an ACO is for purposes of determining the population of Medicare fee-for-service beneficiaries for whose care the ACO is accountable under subpart F of this part, and for determining whether an ACO has achieved savings under subpart G of this part, and in no way diminishes or restricts the rights of beneficiaries assigned to an ACO to exercise free choice in determining where to receive health care services.

(c) Primary care services for purposes of assigning beneficiaries are identified by selected HCPCS codes, G codes, or revenue center codes as indicated in the definition of primary care services under § 425.20.

§ 425.402 Basic assignment methodology.

(a) CMS employs the following stepwise methodology to assign Medicare beneficiaries to an ACO after identifying all patients that had at least one primary care service with a physician who is an ACO provider/supplier of that ACO:

(1)(i) Identify all primary care services rendered by primary care physicians during one of the following:

(A) The most recent 12 months (for purposes of preliminary prospective assignment and quarterly updates to the preliminary prospective assignment).

(B) The performance year (for purposes of final assignment).

(ii) The beneficiary is assigned to an ACO if the allowed charges for primary care services furnished to the beneficiary by all the primary care physicians who are ACO providers/suppliers in the ACO are greater than the allowed charges for primary care services furnished by primary care physicians who are—

(A) ACO providers/suppliers in any other ACO; and

(B) Not affiliated with any ACO and identified by a Medicare-enrolled TIN.

(2) The second step considers the remainder of the beneficiaries who have received at least one primary care service from an ACO physician, but who have not had a primary care service rendered by any primary care physician, either inside or outside the ACO. The beneficiary will be assigned to an ACO if the allowed charges for primary care services furnished to the beneficiary by all ACO professionals who are ACO providers/suppliers in the ACO are greater than the allowed charges for primary care services furnished by—

(i) All ACO professionals who are ACO providers/suppliers in any other ACO; and

(ii) Other physicians, nurse practitioners, physician assistants, clinical nurse specialists who are unaffiliated with an ACO and are identified by a Medicare-enrolled TIN.

(b) [Reserved]

§ 425.404 Special assignment conditions for ACOs including FQHCs and RHCs.

CMS assigns beneficiaries to ACOs based on services furnished in FQHCs or RHCs or both consistent with the general assignment methodology in § 425.402, with two special conditions:

(a) Such ACOs are required to identify, through an attestation, physicians who directly provide primary care services in each FQHC or RHC that is an ACO participant and/or ACO provider/supplier in the ACO.

(b) Under the assignment methodology in § 425.402, CMS treats a service reported on an FQHC/RHC claim as a primary care service if the—

(1) NPI of a physician included in the attestation is reported on the claim as the attending provider; and

(2) Claim includes a HCPCS or revenue center code that meets the definition of primary care services under § 425.20.